

MAR 4 1994

Ms. Christina Purcell
Case Manager
Bureau of Federal Case Management
New Jersey Department of Environmental Protection
401 East State Street, CN 028
Trenton, NJ 08625-0028

Re: Comments on the Draft Record of Decision for the L. E.
Carpenter Company (aka Dayco Corporation) Site in Wharton, NJ

Dear Ms. Purcell:

This is in response to Mr. Karl Delany's January 19, 1994 memorandum. That memorandum transmitted a copy of a draft Record of Decision (ROD) for the L. E. Carpenter Company (aka Dayco Corporation) Site in Wharton, NJ. I have reviewed the document and have enclosed my comments as Attachment A.

Because this site is addressed by the EPA/State Pilot Agreement signed in December 1992, this letter is transmitted to you for informational purposes only, but not to represent the official position or the concurrence of the U.S. Environmental Protection Agency (EPA). The EPA/State Pilot Agreement includes somewhat more elaborate model language for transmittal of EPA comments to the State. (The model language also indicates that the EPA comments should be sent to the State by the EPA Remedial Project Manager.) I am enclosing a copy of the model language as Attachment B for your information. As noted in the model language, the attached comments "do not, however, constitute EPA concurrence on any or all points contained in the document."

In the enclosed comments, I have placed an emphasis on matters relating to Federal law, EPA policy and the EPA/State Pilot Agreement. While I am aware of some typographical errors and grammatical problems in the ROD, I haven't tried to include these observations in Attachment A. I don't believe that the Pilot Agreement intended much EPA involvement in such routine matters, which should be addressed through NJDEPE's own internal review process.

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| SYMBOL ---> | CNJS2 | CNJS2 | | | | | | |
| SURNAME ---> | JOSEPHS | ERLSTEIN | 2/3/94 | | | | | |
| DATE -----> | 2/3/94 | 2/3/94 | | | | | | |

I also wish to note that Section II.E.4 of the EPA/State Pilot Agreement states "Support agency concurrence on lead agency RODs is not required." I understand that EPA has no plans to concur with the ROD for the L. E. Carpenter site. As a result, the first of the two sentences highlighted in bold on page 1 of the ROD should be deleted. However, an EPA decision not to concur on the ROD should not be construed to mean that EPA disagrees with the remedy proposed in the draft ROD or with the rationale described in the draft ROD.

Feel free to contact me at 212 264-8098 if you wish to discuss this matter.

Sincerely yours,

Jonathan Josephs, Project Manager
New Jersey Superfund Branch II
Emergency and Remedial Response Division

Enclosures

cc: K. Delany, NJDEPE

Attachment A

Page

- 1 The site is listed on the Superfund National Priorities List as the Dayco Corp./L.E. Carpenter Co. Superfund site. Therefore, it would be useful to mention this name for the site in the first sentence. Subsequently, the abbreviated names ("L. E. Carpenter site" or "the site") can be used.
- 1 The acronym "CERCLA" as used in the ROD refers to the Act, as amended, and not to the original 1980 Act. Therefore, "(CERCLA)" should be moved to follow the word "amended" in the first sentence. If this change is not made, the phrase "CERCLA, as amended" should be used in the ROD unless the intent is to refer only to the 1980 Act. If the change is made, the phrase "by the Superfund Amendments and Reauthorization Act of 1986 (SARA)" would need to be deleted.
- 1 The first of the two sentences highlighted in bold on page 1 should be deleted.
- 1 For consistency, use the acronym "EPA" instead of "USEPA" throughout the ROD. (Both acronyms are used in this document.)
- 13 According to Table 6, Alternatives 3, 4, 5 and 6 are expected to meet MCLs and NJ Class II-A groundwater cleanup standards. Are these ARARs tabulated in the ROD (e.g., are they included in Appendix C, which is missing from this draft ROD)? If so, the narrative descriptions of these alternatives should reference the location where these ARARs are tabulated. If not, they should be added to the ROD.
- 14 The capital cost for Alternative 3 is nearly \$3 million higher than that given in the FS Report. Which amount is correct?
- 17 What is the statutory or regulatory citation for the 1×10^{-6} NJ remediation standard? This standard and the citation could be included in Table 3, Table 6 and/or in the missing Appendix C.
- 19 The discussion of short-term effectiveness focuses on the potential for adverse effects during remedial construction activities. However, other criteria can be considered under the heading of short-term effectiveness (i.e., whether the remedial construction can be designed and implemented quickly and whether most of the problems are eliminated during the remedial construction phase).

- 19 Its not clear that wetlands disturbance from Alternatives 5 and 6 would be "extensive." Page 2-11 of the FS Report indicates only that excavation "could cause siltation and sediment loading on the Rockaway River and negatively impact downstream wetlands areas."
- 20 Judging by Section C of the Responsiveness Summary, it appears that the community would accept the preferred alternative identified in the Proposed Plan (i.e., Alternative 4). This can be stated in the section on community acceptance.
- 20 EPA's comments on the Proposed Plan and EPA's comments contained in this letter have raised no objections to the preferred alternative identified in the Proposed Plan (i.e., Alternative 4). This can be stated in the section on EPA acceptance.
- 22 Will Appendix C be included in the final version of the ROD?
- Fig. 4 In Figure 4, the abbreviation "CAMU" is used without explanation. Can this abbreviation be replaced by "Unsaturated Zone" or clarified in some other way? The effluent discharge in this figure could be identified as going to the deeper aquifer.

APPENDIX C

Model Language for Documents Transmitting EPA Comments to States at Non-Fund-Financed State-Lead Enforcement Sites.

The following language will be added to any comments EPA gives regarding activities at Non-Fund-financed State-lead Pilot sites.

As the Remedial Project manager for the Site, I have reviewed the [RI/FS, draft ROD/RD workplan, etc.] and have the comments set forth below. These comments do not, however, constitute EPA concurrence on any or all points contained in the document. The Agency has not reviewed the document in the depth necessary to make such a judgment. Because this site has been designated as a "non-Fund-financed State-lead enforcement site," EPA concurrence is not a prerequisite to a State's selecting a remedy (under State law), and EPA's concurrence has neither been requested by the State nor offered by EPA. As the National Contingency Plan regulations note, "[u]nless EPA's Assistant Administrator for Solid Waste and Emergency Response or Regional Administrator concurs in writing with a State-prepared ROD, EPA shall not be deemed to have approved the State's decision" (40 CFR 300.515(e)(20)(ii)); in this case, neither the Assistant Administrator for OSWER nor the Regional Administrator has so concurred.